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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/644,956

08/21/2003

Stefan Fuchs

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09/20/2006

FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

ILAN, RUTH

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,956

Applicant(s)

FUCHS ET AL.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,7-9,11-14 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/14/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/26/06 has been entered.

Claim Rejections - 35 USC § 112

2. Claim 11, 16, 17, and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites, in the last two lines "such that the tubular gas generator bears against a stop of the fastening element". There are two problems with this characterization. First of all, the stop is more clearly described in the specification, and in previous claims as being part of the first guide member, which is itself a part of the fastening element. Second, the gas generator doesn't bear against the stop, the second guide member (i.e. the pin) bears against the stop. The Examiner suggests changing the language of claim 11 to read (beginning with the last three lines of the claim) "wherein the deformation element is arranged to brace the tubular gas generator with respect to the fastening element so that the second guide member bears against a stop of the first guide member."

Claim Rejections - 35 USC § 102

Art Unit: 3616

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 3, 4, 7, 8, 9, 12, 13, 14, 18, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanda (US 5,730,459.) Kanda teaches an air bag unit for a motor vehicle including a tubular gas generator (8) having a tube axis (through the center) that points in the direction of the vehicle interior (out of the steering column) and a deformation element (10₅- see Figure 5 and col. 2, lines 32-35) and a fastening element (3₁) for tying the gas generator to the motor vehicle. The deformation element is arranged between the fastening element and the gas generator. There are guide members (14 and 10₄) guiding the generator along a defined displacement path. The guide member 14 is a pin located on the fastening element, that is, as claimed the pin is the first guide member, and the guide member 10₄ is located on the tubular gas generator (via lid 10 and rivet 15, see Figure 4) and is a long hole (the guide member 10₄ is the second guide member. The displacement path is in a direction away from the vehicle occupant (since it is in the direction opposite to the front of the steering wheel.) The guide member 10₄ has two stops, which are the arcuate ends of the holes. Regarding claim 9, displacement is prevented when the gas generator is subject to a force which is lower than a predetermined force (that is any force lower than the one required to bend the deformation element 10₅). Regarding claims 13 and 14, a housing (which can broadly reasonably be interpreted to be made up made up of 10 and 13) receives a gas bag (9) and is located on the gas generator, in that it is attached via the rivet 15.

5. Claims 1, 3, 4, 7-9, 11-13 and 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 4-135944, which was cited by the Applicant. JP 4-135944 teaches, in Figures 1 and 4, a tubular gas generator (15) having a tube axis (through the center) that points in the direction of the vehicle interior (outwardly) and a deformation element (spring 35) and a fastening element (31) for tying the gas generator to the motor vehicle. The deformation element is arranged between the fastening element and the gas generator. There are guide members (hole 13b and pin 36) guiding the generator along a defined displacement path. The first guide member is the pin, and it is located on the fastening element and the second guide member is the hole and it is located on the gas generator, via mount 13. Regarding claim 8, the pin has at least one stop (39, and unnumbered head of pin.) Regarding claim 9, as broadly recited, any force that is lower than the spring force will not move the gas generator. Regarding claim 11, as best understood, the spring braces the gas generator holder 13 against the fastening element so that the deformation element (spring) is arranged to brace the tubular gas generator with respect to the fastening element so that the second guide member bears against a stop of the first guide member. That is the hole 13b bears against the top of the pin 36. Regarding claim 13, the element 13 is reasonably termed a housing.

Allowable Subject Matter

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 4/26/06 have been fully considered but they are not persuasive. As noted in the Advisory Action of 4/12/06 the Examiner does not, nor has not contended that the bolt 14 of Kanda is the "second guide member" and located on the tubular gas generator. The bolt is the first guide member, it is located on the fastening element. The second guide member is the slot 10₄ is located on the tubular gas generator (via lid 10 and rivet 15, see Figure 4.) Based on the definition provided by the Applicant for located, and based on the reasonable interpretation of the term "located" the slot of Kanda is located on the generator, because it connected and placed at the generator, albeit not directly, by the elements 10 and rivet 15.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

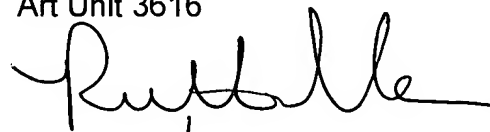
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RI

Ruth Ilan
Primary Examiner
Art Unit 3616


9/18/06